

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 22, 2012

AMENDED IN ASSEMBLY JULY 14, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 249

Introduced by Senator Yee

~~(Principal coauthor: Assembly Member Ma)~~

(Coauthor: Senator De León)

(Coauthor: Assembly Member Portantino)

February 10, 2011

An act to amend Section 31100 of, to amend, repeal, and add Section 30800 of, and to add Sections 30527 and 30618 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Yee. Firearms: assault weapon conversion kits.

Existing law, with certain exceptions, prohibits the possession of an assault weapon, as defined, and makes violations subject to criminal penalties.

This bill would, commencing July 1, 2013, and with certain exceptions, prohibit any person from importing, making, selling, loaning, transferring, or possessing any conversion kit, as defined, designed to convert certain firearms with a fixed magazine into firearms with the capacity to accept a detachable magazine and other features making the firearm an assault weapon and would make violations subject to criminal penalties. By creating new crimes, this bill would impose a state-mandated local program.

Existing law makes possession of an assault weapon a public nuisance, authorizes the Attorney General, district attorney, or city attorney to bring a civil action to enjoin possession of the weapon, authorizes imposition of a civil fine, and, with certain exceptions, requires disposition of the weapon by sale at public auction or by destruction.

This bill would, commencing July 1, 2013, make possession of a conversion kit a public nuisance, would authorize a civil action to enjoin possession of a conversion kit, would authorize imposition of a civil fine, and, with certain exceptions, would, similarly, require disposition of the conversion kit.

Existing law authorizes a person to arrange in advance to relinquish an assault weapon to a police or sheriff's department.

This bill would authorize a person to arrange in advance to relinquish a conversion kit to a police or sheriff's department.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30527 is added to the Penal Code, to
- 2 read:
- 3 30527. (a) As used in this chapter a "conversion kit" means
- 4 either of the following:
- 5 (1) Any combination of parts that, when affixed to a firearm
- 6 with a fixed magazine, are designed and intended to convert that
- 7 firearm into an assault weapon as defined by one of the following:
- 8 (A) Paragraph (1) of subdivision (a) of Section 30515.
- 9 (B) Paragraph (4) of subdivision (a) of Section 30515.
- 10 (C) Paragraph (7) of subdivision (a) of Section 30515.
- 11 (2) Any part that, when affixed to a firearm with a fixed
- 12 magazine, is designed solely and exclusively to convert that firearm
- 13 into an assault weapon as defined by one of the following:
- 14 (A) Paragraph (1) of subdivision (a) of Section 30515.
- 15 (B) Paragraph (4) of subdivision (a) of Section 30515.
- 16 (C) Paragraph (7) of subdivision (a) of Section 30515.

1 (b) This section shall become operative on July 1, 2013.

2 SEC. 2. Section 30618 is added to the Penal Code, to read:

3 30618. (a) No person shall import into this state, make, sell,
4 loan, transfer or possess a conversion kit.

5 (b) For purposes of this article, if more than one conversion kit
6 is involved in any violation of this article, there shall be a distinct
7 and separate offense for each violation.

8 (c) The provisions of this section are cumulative and shall not
9 be construed as restricting the application of any other law.
10 However, an act or omission punishable in different ways by
11 different provisions of law shall not be punished under more than
12 one provision.

13 (d) Subdivision (a) shall not apply to or affect any of the
14 following:

15 (1) The sale to, transfer, to, or loan to, importation of, or
16 possession of a conversion kit by the Department of Justice, police
17 department, sheriffs' offices, marshals' offices, the Department
18 of Corrections and Rehabilitation, the Department of the California
19 Highway Patrol, district attorneys' offices, the Department of Fish
20 and Game, the Department of Parks and Recreation, or the military
21 or naval forces of this state or of the United States, or any federal
22 law enforcement agency for use in the discharge of their official
23 duties.

24 (2) The transfer by or loan by the entities listed in paragraph
25 (1) of a conversion kit to sworn peace officer members of those
26 agencies for law enforcement purposes.

27 (3) The possession of conversion kits by sworn peace officer
28 members of those agencies specified in paragraph (1) for law
29 enforcement purposes.

30 (4) The manufacture of, possession of, or importation of a
31 conversion kit by any person who is issued a permit pursuant to
32 Section 31005.

33 (5) The sale by, loan of, or transfer of a conversion kit by a
34 person who is issued a permit pursuant to Section 31005 to any of
35 the following:

36 (A) Exempt entities listed in paragraph (1).

37 (B) Entities and persons who have been issued permits pursuant
38 to Section 31005.

39 (C) Federal military and law enforcement agencies.

40 (D) Law enforcement and military agencies of other states.

1 (E) Foreign governments and agencies approved by the United
2 States State Department.

3 (6) A person who is the executor or administrator of an estate
4 that includes a conversion kit that is possessed in accordance with,
5 and disposed of as authorized by, the probate court, if the
6 disposition is otherwise permitted by this section.

7 (7) The possession of and sale or transfer of a conversion kit
8 by a person incident to relinquishing the conversion kit pursuant
9 to Section 31100.

10 (8) The transfer by a person authorized to possess a conversion
11 kit by this section to any licensed gun dealer for the purposes of
12 servicing or repair from any person who is legally entitled to
13 possess it pursuant to this section.

14 (9) The possession of a conversion kit by any licensed gun dealer
15 who received the conversion kit pursuant to paragraph (8).

16 (10) The transfer of possession of a conversion kit received by
17 any licensed gun dealer pursuant to paragraph (9) to a gunsmith
18 for purposes of accomplishing service or repair of that conversion
19 kit. A transfer is permissible only to the following persons:

20 (A) A gunsmith who is in the dealer's employ.

21 (B) A gunsmith with whom the dealer has contracted for
22 gunsmithing services.

23 (11) The transfer of possession of any conversion kit by any
24 person referred to in paragraph (10) to either the licensed gun
25 dealer from whom it was received or to a person otherwise referred
26 to in paragraph (10).

27 (12) The return of any conversion kit initially received by any
28 licensed gun dealer pursuant to this section to the person from
29 whom he or she received it if that recipient is legally entitled to
30 possess that conversion kit pursuant to this section.

31 *(13) The possession of a conversion kit by the registered owner*
32 *of an assault weapon if the conversion kit is possessed at that*
33 *person's residence, place of business, or other property owned by*
34 *that person.*

35 (e) A violation of this section is punishable as follows:

36 (1) Where the person imports into this state, makes, sells, loans,
37 or transfers a conversion kit, that person shall be punished by a
38 fine of one thousand dollars (\$1,000), imprisonment in a county
39 jail for a period not to exceed one year, or by both that fine and
40 imprisonment.

1 (2) In all cases not specified in paragraph (1), as a misdemeanor.

2 (f) This section shall become operative on July 1, 2013.

3 SEC. 3. Section 30800 of the Penal Code is amended to read:

4 30800. (a) (1) Except as provided in Article 2 (commencing
5 with Section 30600), possession of any assault weapon or of any
6 .50 BMG rifle in violation of this chapter is a public nuisance,
7 solely for purposes of this section and subdivision (c) of Section
8 18005.

9 (2) The Attorney General, any district attorney, or any city
10 attorney, may, in lieu of criminal prosecution, bring a civil action
11 or reach a civil compromise in any superior court to enjoin the
12 possession of the assault weapon or .50 BMG rifle that is a public
13 nuisance.

14 (b) Upon motion of the Attorney General, district attorney, or
15 city attorney, a superior court may impose a civil fine not to exceed
16 three hundred dollars (\$300) for the first assault weapon or .50
17 BMG rifle deemed a public nuisance pursuant to subdivision (a)
18 and up to one hundred dollars (\$100) for each additional assault
19 weapon or .50 BMG rifle deemed a public nuisance pursuant to
20 subdivision (a).

21 (c) Any assault weapon or .50 BMG rifle deemed a public
22 nuisance under subdivision (a) shall be destroyed in a manner so
23 that it may no longer be used, except upon a finding by a court, or
24 a declaration from the Department of Justice, district attorney, or
25 city attorney stating that the preservation of the assault weapon or
26 .50 BMG rifle is in the interest of justice.

27 (d) Upon conviction of any misdemeanor or felony involving
28 the illegal possession or use of an assault weapon, the assault
29 weapon shall be deemed a public nuisance and disposed of pursuant
30 to subdivision (c) of Section 18005.

31 (e) This section shall become inoperative on July 1, 2013, and,
32 as of January 1, 2014, is repealed, unless a later enacted statute,
33 that becomes operative on or before January 1, 2014, deletes or
34 extends the dates on which it becomes inoperative and is repealed.

35 SEC. 4. Section 30800 is added to the Penal Code, to read:

36 30800. (a) (1) Except as provided in Article 2 (commencing
37 with Section 30600), possession of any assault weapon, any .50
38 BMG rifle, or any conversion kit in violation of this chapter is a
39 public nuisance, solely for purposes of this section and subdivision
40 (c) of Section 18005.

1 (2) The Attorney General, any district attorney, or any city
2 attorney may, in lieu of criminal prosecution, bring a civil action
3 or reach a civil compromise in any superior court to enjoin the
4 possession of the assault weapon, .50 BMG rifle, or conversion
5 kit that is a public nuisance.

6 (b) (1) Upon motion of the Attorney General, district attorney,
7 or city attorney, a superior court may impose a civil fine not to
8 exceed three hundred dollars (\$300) for the first assault weapon
9 or .50 BMG rifle deemed a public nuisance pursuant to subdivision
10 (a) and up to one hundred dollars (\$100) for each additional assault
11 weapon or .50 BMG rifle deemed a public nuisance pursuant to
12 subdivision (a).

13 (2) Upon motion of the Attorney General, district attorney, or
14 city attorney, a superior court may impose a civil fine not to exceed
15 one hundred dollars (\$100) for the first conversion kit deemed to
16 be a public nuisance pursuant to subdivision (a) and up to fifty
17 dollars (\$50) for each additional conversion kit deemed to be a
18 public nuisance pursuant to subdivision (a).

19 (c) Any assault weapon, .50 BMG rifle, or conversion kit
20 deemed a public nuisance under subdivision (a) shall be destroyed
21 in a manner so that it may no longer be used, except upon a finding
22 by a court, or a declaration from the Department of Justice, district
23 attorney, or city attorney stating that the preservation of the assault
24 weapon, .50 BMG rifle, or conversion kit is in the interest of
25 justice.

26 (d) Upon conviction of any misdemeanor or felony involving
27 the illegal possession or use of an assault weapon, the assault
28 weapon shall be deemed a public nuisance and disposed of pursuant
29 to subdivision (c) of Section 18005.

30 (e) Upon conviction of any misdemeanor involving the illegal
31 possession or use of a conversion kit, the conversion kit shall be
32 deemed a public nuisance and disposed of pursuant to subdivision
33 (c) of Section 18005.

34 (f) This section shall become operative on July 1, 2013.

35 SEC. 5. Section 31100 of the Penal Code is amended to read:

36 31100. Any individual may arrange in advance to relinquish
37 an assault weapon, a .50 BMG rifle, or a conversion kit to a police
38 or sheriff's department. The assault weapon or .50 BMG rifle shall
39 be transported in accordance with Sections 16850 and 25610.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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